Department of Justice

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AT
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JUSTICE DEPARTMENT URGES DENIAL OF UNION PACIFIC/SOUTHERN PACIFIC MERGER

Marks The Largest Railroad Merger Ever Reviewed

WASHINGTON, D.C. -- The Justice Department today urged the Surface Transportation Board to deny the proposed merger of the Union Pacific Corporation and Southern Pacific Rail Corporation because it would reduce competition for rail freight customers, possibly resulting in $800 million a year in consumer price increases. Freight customers pay over $6 billion in rail charges annually in the markets where competition would be lessened.

The Department, in a brief filed with the Surface Transportation Board, said that the merger would give Union Pacific a monopoly in hundreds of markets, including Houston and the Gulf Coast region as well as Colorado and Utah, and would leave hundreds of other markets, such as Los Angeles, with only two rail competitors.

The Department told the Board that denial of the Application -- without Board-ordered conditions -- is the most certain, effective and expeditious way to preserve competition. Given the extensive divestiture that would be required to offset the enormous competitive consequences, the Department advised the Board that it would be difficult, if not impossible, for them to fashion a remedy. Furthermore, during the inevitable delay as Union Pacific tried to sell off these tracks, they would enjoy little to no competition in hundreds of major markets across the country.

"This merger would mean higher shipping charges and would cost consumers dearly," said Anne K. Bingaman, Assistant Attorney General in charge of the Justice Department's Antitrust Division. "We recommend that the Surface Transportation Board reject the merger proposal in the interest of preserving competition in the rail freight industry and for the good of the American consumer."

According to the Department's brief, major parallel lines would have to be divested to other railroads in order to preserve competition. The Department said three major rail lines would have to be sold:

- one of the two parallel routes radiating from Houston, Texas, north through Little Rock and Memphis to St. Louis; east to New Orleans; west to San Antonio; and South to Brownsville;
- one of the two Central Corridor routes from Oakland, California through Salt Lake City and Denver to Kansas City; and
- lines between Los Angeles and Chicago or another eastern gateway.

The Department also specified that these divestitures would have to be made to railroads other than Burlington Northern/Santa Fe.

Union Pacific and Southern Pacific offered to grant Burlington Northern/Santa Fe the right to conduct limited operations over their track as a remedy to the competitive harm the merger may cause. The Department said this was an inadequate proposal that does not preserve the existing competition that Southern Pacific currently provides.

The Department's brief further said that the competitive harm from the merger would outweigh the claimed benefits, and that Southern Pacific's financial condition was not so serious that it would not remain a significant competitor for the indefinite future.

The Board is scheduled to announce its decision on July 3.

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96- 253